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Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 8 May 2002 from the Permanent Mission of Tunisia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Tunisia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan and, with reference to Security Council resolution 1390 (2002), has the honour to transmit to him the report of Tunisia on that question.

Annex to the note verbale dated 8 May 2002 from the Permanent Mission of Tunisia to the United Nations addressed to the Chairman of the Committee

[Original: Arabic]

Report of Tunisia on the implementation of Security Council resolution 1390 (2002) of 16 January 2002

Tunisia's persistent desire to fight terrorism is affirmed once again through its total commitment to the provisions of Security Council resolution 1390 (2002) of 16 January 2002 requiring States to combat the terrorist activities carried on by Osama Bin Laden, the al-Qa'idah organization, the Taliban and entities associated with them.

Tunisia's desire to keep up with international efforts to combat terrorism is manifest in its being a party to all international and regional conventions on counter-terrorism. Indeed, it recently acceded to the International Convention for the Suppression of Terrorist Bombings (Act No. 17 (2002) of 14 February 2002) and began the procedure for the ratification of the International Convention for the Suppression of the Financing of Terrorism, which it had signed on 2 November 2001, and of the United Nations Convention against Transnational Organized Crime, signed by Tunisia on 14 December 2000. Recently it also ratified the Convention of the Organization of the Islamic Conference on Combating International Terrorism (Act No. 36 (2002) of 1 April 2002).

The following are measures adopted by the Tunisian authorities in compliance with the requirements of Security Council resolution 1390 (2002):

The freezing, pursuant to paragraph 2 (a) of resolution 1390 (2002), of the assets of entities and individuals involved in terrorist activities

In addition to various legal provisions enacted since the beginning of the 1990s in the field of prevention and suppression of terrorism (see the report submitted by Tunisia in the context of Security Council resolution 1373 (2001)), Tunisia is preparing to adopt a comprehensive anti-terrorism law which was examined by the Cabinet on 9 January 2002 and has been sent to the National Assembly. The bill, which concerns the suppression of terrorist offences and the fight against international terrorism, embodies Tunisia's comprehensive view on how to deal with terrorism and cooperate internationally in order to combat it. The bill is also aimed at achieving greater effectiveness in the fight against terrorism, be it in the area of prevention or in that of prosecution and punishment, while respecting the fundamental guarantees established for accused persons.

It should be noted that the bill is in accord with international trends, containing provisions for the freezing of funds and other financial assets or economic resources of perpetrators of terrorist offences. Those provisions grant the authorities the power to seize movable and real property and funds belonging to persons suspected of having committed a terrorist offence and to determine the manner of disposal thereof throughout the duration of the case. Furthermore, in the event of conviction for a terrorist offence, the assets derived from the crime must be sequestered and the

acquisitions of the convicted person, including movable and real property, funds and other assets, confiscated.

The bill further provides for a number of mechanisms to permit the achievement of that objective, making it a criminal offence, for example, to accept deposits under a borrowed name and making it a duty for any person to report to the authorities any information that has come to his attention concerning activities or transactions that may be related to, or persons who have committed, such offences.

It should be mentioned that some of those mechanisms reinforce the current status of national legislation on banking activity: Tunisian law, for example, does not recognize secret or numbered accounts, which means that bank accounts include all particulars relating to the depositor.

Pending the promulgation of the law on terrorist offences, it has been possible, pursuant to Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002), to adopt the necessary measures on the freezing of the funds and other financial assets or economic resources of the entities and persons targeted by those resolutions.

In this connection, all the banks in Tunisia have been informed of the above-mentioned Security Council resolutions and provided with the list of entities and persons to whom the measures in question relate, which was prepared by the Security Council Committee established pursuant to resolutions 1267 (1999) (Afghanistan Sanctions Committee). The banks will also be provided with any updated list issued and distributed by that Committee. The same steps have been taken by the Financial Market Council in respect of stockbrokers.

The banks have also been requested to take the necessary steps to freeze funds, financial assets and resources in their possession that belong to such persons and entities and to notify the designated authorities whenever they take any steps of that nature.

In addition, the list in question is on hand with the competent offices of the Central Bank of Tunisia, which conducts the necessary investigations with a view to the adoption of the measures required by the Security Council resolutions.

It should be noted that the investigations conducted by those institutions to date have not revealed anything pointing to the existence of any funds, financial assets or resources on hand in the Tunisian banking system or with stockbrokers that might belong to the persons or entities identified in the list.

Measures relating to internal security and combating terrorism

With regard to compliance with paragraph 2 (b) of Security Council resolution 1390 (2002), the security organs are responsible for taking the requisite specific enforcement measures for preventing the entry into or transit through our country of persons affiliated with the al-Qa'idah organization, the Taliban and groups, individuals and entities associated with them, especially in respect of all the means afforded to the competent security departments, in particular border security, for ascertaining their identities, whether disseminated internationally, within the framework of cooperation with the relevant regional bodies or through bilateral cooperation.

These competent security bodies are constantly at work in various operational and field activities aimed at preventing terrorism and ensuring that terrorists do not evade prosecution for their criminal activities.

Tunisia is also desirous of intensifying the exchange of information with the competent structures on the movements and activities of suspected individuals and tightening land border controls so as to prevent any infiltration of suspected elements. This should be achieved through coordination among the competent departments; the securing and monitoring of the open desert; the strengthening of the structures specialized in fighting terrorism; the tightening of arms and ammunition security procedures in barracks, in the field and during transport so that weapons do not fall into the hands of terrorists; the conducting of security investigations and studies of the appointment of persons; continued training of units for fighting armed elements; and participation in regional and international meetings and symposia on combating the crime of terrorism, organized crime and transnational crime.

Concerning paragraph 8 of Security Council resolution 1390 (2002), with respect to prosecution of terrorist elements involved in extremist activities:

- With regard to 77 Tunisians whose membership in terrorist organizations, including al-Qa'idah, has been substantiated, border measures have been adopted for their arrest and arraignment. In addition, special and definite warrants for their arrest have been issued in connection with them pursuant to letters rogatory, as they are the accused in case No. 89464 of 27 December 2001, which is still in progress before the court of first instance of Tunis, the charge being "participation in a collective scheme aimed at causing harm to persons and property for the purpose of intimidating and causing terror, affiliation with a criminal conspiracy for the purpose of preparing for attacks on persons and property and participation therein."

A border measure has been instituted to prevent the entry into or transit through Tunisian territory of all the persons mentioned in the new United Nations list dated 14 March 2002 and including 212 persons. The Tunisian terrorist Shafiq Ayadi, whose name appears on the list, was the subject of an earlier border measure ordering his arrest and arraignment due to the fact that he is wanted by the justice system for his involvement in a case of terrorism involving "placing himself, in time of peace, under a terrorist organization operating abroad and belonging to an unlicensed association". A judgment in absentia was handed down against him on 20 June 1995 by the Permanent Military Tribunal in Tunis, condemning him to 10 years' imprisonment.

Concerning the requirements of paragraph 2 (c) of Security Council resolution 1390 (2002), it should be mentioned that Act No. 33 (1969) of 12 June 1969 on importing, possessing, carrying and trading in arms provides for effective supervision of the manufacture, import, circulation, sale, transport, possession and bearing of arms.

Within the same context, Act No. 63 (1996) of 15 July 1996 on the control of the conditions of the manufacture, export, import, transport, storage and use of and trade in explosives intended for civilian use, forbids the use of explosives for purposes other than those defined by law, thus making it possible to limit misuse to the greatest possible extent.

Concerning paragraph 8 of Security Council resolution 1390 (2002), Tunisia has always been committed to preventing the provision of any technical advice, assistance or training relating in any way to military or paramilitary organizations connected with terrorism.

Also in connection with the requirements of paragraph 8 of Security Council resolution 1390 (2002), immediately after the explosion that took place in Jerba on 11 April 2002, the competent judicial and police authorities immediately went to the site and in due course opened a judicial investigation in order to determine the causes of the incident, the persons responsible for it and their possible affiliation with terrorist organizations. The Tunisian judicial and police authorities are still continuing the investigation, which was undertaken in cooperation and coordination with foreign, primarily German and French, police forces, after it became apparent that the driver of the truck involved in the incident normally lived with his family in Lyons, France. No clue is being ignored in the continued investigation of this event, including the suspect's connections with elements resident in Germany.

Judicial measures adopted in the context of the fight against terrorism

In compliance with the requirements of paragraph 8 of Security Council resolution 1390 (2002), the forensic authorities, in coordination with the security authorities, are desirous of taking legal steps in a timely manner for the investigation and surveillance of anyone concerning whom it comes to their attention that he is involved, closely or remotely, in terrorist organizations or activities, especially the al-Qa'idah and Taliban organizations or persons or entities affiliated with them. Tunisians abroad, moreover, are not excepted from such observation.

In this connection, the judicial authorities, in coordination with the security authorities, learned of the involvement of a group of Tunisians in fundamentalist terrorist organizations operating abroad and aimed at committing attacks both within Tunisian territory and outside it.

The judicial authorities undertook in due course to open a judicial investigation against that group (which includes Tariq Al-Ma'rufi and Nizar Al-Tarabulsi, who were arrested in Belgium, and Muhammad bin Belgacem Awadi and Riyadh Jelassi, arrested in Milan) and anyone found in the investigation to be guilty of participating in a collective scheme aimed at causing harm to persons and property for the purpose of intimidating and causing terror, affiliation with a criminal conspiracy for the purpose of preparing for attacks on persons and property and participation therein, in accordance with Tunisian penal law.

The investigative proceeding has been officially instituted and the examining magistrate has granted powers to the security authorities to conduct the necessary investigations, ascertaining the parties involved and the activity, role and affiliation of each. Those investigations are still in progress.

Legal action was taken against 34 terrorists by the Permanent Military Tribunal in Tunis in case No. 12101 of 20 January 2002, three of whom, being present, were given sentences ranging from 8 to 10 years of imprisonment and 5 years' administrative supervision. The remaining 31, who were abroad, were each sentenced in absentia to 20 years' imprisonment and 5 years' administrative supervision. All the accused were deprived of their civil rights for "placing themselves, in time of peace, at the disposal of a foreign organization and instigation

thereto with the intention of causing harm to persons and property and seeking to instigate hatred and religious fanaticism". In addition, the property of three of them has been confiscated pursuant to chapter 132, paragraph 2, of the Code of Military Procedure and Penalties and paragraph 52 bis of the Penal Code.

In addition, numerous and varied measures and procedures have been instituted in the past with a view to preventing and fighting terrorism. Tunisia reaffirms once again the need to promote further international cooperation in this area through compliance with requests for the extradition of terrorists and the strengthening of judicial and police cooperation with respect to them.

In this regard it should be pointed out that since the 1990s Tunisia has submitted to a number of States, in particular European States, requests for the extradition of Tunisians involved in cases of terrorism, but those requests have not been met. After the events of 11 September 2001 it became evident that a number of the persons in question had been involved in acts of the same nature and that others were affiliated with the al-Qa'idah organization and the Taliban.